

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).8527/2007

(From the judgement and order dated 24/11/2006 in MA No. 361/2002 of The HIGH COURT OF PATNA)

HINDUSTAN LIVE STOCK AGENCY

Petitioner(s)

VERSUS

DY.COMMR.OF INCOME TAX,PATNA

Respondent(s)

(With office report)

Date: 16/05/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE V.S. SIRPURKAR

For Petitioner(s)

Mr. Mukul Rohtagi, Sr. Adv.

Mr. K.N. Singh, Adv.

Ms. Shivalakshmi, Adv.

Mr. T. Mahipal,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

The Income Tax Appellate Tribunal [for short "the Tribunal"] b
y its order

dated 25th February, 2002 passed in ITA No. 248(Pat)/2001 set aside the order of the CIT (Appeals) and allowed the appeal of the revenue on merits after condoning the delay in filing the appeal without notifying the petitioners.

Being aggrieved, the petitioner filed a Misc. Application No. 9/Pat of 2004

under Section 254(2) of the Income Tax Act [for short "the Act"] for rectification of the

order on the ground that the delay could not be condoned without notifying the

petitioner and as well as on merits.

The Tribunal by its order dated 12th October, 2006 allowed the aforesaid Misc.

Application under Section 254(2) of the Act for the limited purpose of rectifying the

mistake in condoning the delay without notifying the petitioner.

In the meantime, petitioner had already filed an appeal against the order

passed by the Tribunal dated 25th February, 2002 setting aside the order of CIT

(Appeals) and restoring the order of the assessing authority. The High Court has

dismissed the appeal filed by the petitioner in limine.

Since the matter had already been re-opened by the Tribunal on the question of limitation, the appeal filed by the petitioner before the High Court became infructuous and should not have been pressed.

We dismiss this petition reserving liberty with the petitioner to approach the High Court again in appeal on merits as well as on the point of limitation, if the

Tribunal holds against the petitioner on the issue of limitation.

(J.S. Rawat)

A.R.-cum-P.S.

(Kanwal Singh)

Court Master